IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.W.P. No.12053 of 2004
Date of Decision: 17.5.2007

Narata Ram and others Vs. Commissioner, Ambala Division, Ambala

....

Present : Mr.Pritam Saini, Advocate for the petitioners.
Mr.Anil Rathee, Addl.A.G. Haryana.
Mr.Bikram Chaudhary, Advocate for respondent no.3.

....

CORAM : HON'BLE MR.JUSTICE P. SATHASIVAM
HON'BLE MR.JUSTICE RAJIVE BHALLA

****

1. Whether Reporters of Local Newspapers may be allowed to see the judgement ?
2. To be referred to the Reporters or not ?
3. Whether the judgement should be reported in the Digest ?

****

P.SATHASIVAM, J (Oral)

Aggrieved by the orders dated 18.11.2002 of the Collector, Thanesar and dated 29.1.2004 passed by the Commissioner, Ambala Division, Ambala, the petitioners have approached this Court.

We have heard learned counsel for the parties and perused the paper book.

Even at the outset, counsel for the petitioners, fairly states that they are aggrieved in respect of charges that were fixed by the Collector and confirmed by the Commissioner. In such circumstances, we are of the view that it is unnecessary for this Court to have all the factual details as stated by both the sides.

Learned counsel for the petitioners by drawing our attention to Haryana Public Premises and Land (Eviction & Rent Recovery) Rules, 1973 (hereinafter referred to as `the Rules') submits that it is but proper that the original authority i.e. Collector should advert to the matters referred therein. According to the petitioners, the Collector's order dated 18.11.2002 does not disclose any reasons for fixing use and occupation charges at the rate of Rs.10,000/- per hectare per annum.

On the other hand, counsel for respondent no.3 submits that the authority had taken note of period and lease amount in the case of one Gobind Ram hence the ultimate conclusion arrived at by the authority cannot be faulted with.

We have gone through the impugned orders, the original authority as well as appellate authority with regard to charges fixed for use and occupation by them and also gone through the provisions, namely Rule 6 of the above Rules. The Collector has not considered how the amount of Rs.10,000/- per hectare per annum was arrived. The appellate authority though confirmed the order of the District Collector has not specifically referred to the quantum of charges fixed by the Collector. In this regard, it is relevant to refer Rule 6, which reads as under :-

> "6. Assessment of damages – In assessing damages for unauthorised use and occupation of any public premises, the Collector shall take into consideration the following matters, namely ;

(a) the purpose and the period for which the public premises were (in unauthorised occupation);

(b) the nature, size and standard of the accommodation available in such premises;

© the rent that would have been realised if the premises had been let on rent for the period of unauthorised occupation to a private person;

(d)any damage done to the premises during the period of unauthorised occupation;

(e) any other matter relevant for the purpose of assessing the damages."

The above provisions make it clear that while assessing damages for unauthorised use and occupation of public premises, it is important on the part of the Collector to take into consideration the relevant matters mentioned in clauses (a) to (e) of the above rule. In view of our conclusion that the authorities have not adhered to the above provisions, we are of the view that the order fixing charges for use and occupation is to be setaside and the matter be remitted to the original authority, i.e. the Collector, for deciding afresh. Consequently, we set aside the order dated 18.11.2002 and remit the matter to the Collector,respondent no.2, with a direction to fix use and occupation charges in accordance with the statutory provisions after affording an opportunity of hearing to both the parties, within a period of six months' from the date of receipt of a certified copy of this order.

The writ petition is allowed to the extent referred to above with no order as to costs.

(P. SATHASIVAM)
JUDGE

17.5.2007
GS

(RAJIVE BHALLA)
JUDGE